

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MICHAEL P. LYNCH and DEPARTMENT OF THE ARMY,
DIRECTORATE FOR LOGISTIC SYSTEMS, Seckenheim, Germany

*Docket No. 97-2100; Submitted on the Record;
Issued May 6, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant established that his emotional condition was caused by employment factors.

The Board has carefully reviewed the case record and finds that appellant has failed to meet his burden of proof in establishing that his paranoid schizophrenia was work related.

Under the Federal Employees' Compensation Act,¹ appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that the condition for which he claims compensation was caused or adversely affected by factors of his federal employment. To establish that he sustained an emotional condition in the performance of duty, appellant must submit: (1) factual evidence identifying employment factors or incidents alleged to have caused or contributed to his condition; (2) medical evidence establishing that he has an emotional or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to his emotional condition.²

Workers' compensation law does not cover each and every injury or illness that is somehow related to employment.³ There are distinctions regarding the type of work situation giving rise to an emotional condition which will be covered under the Act.

For example, disability resulting from an employee's emotional reaction to his or her regular or specially assigned duties or to a requirement imposed by the employing establishment is covered.⁴ However, an employee's emotional reaction to an administrative or personnel

¹ 5 U.S.C. §§ 8101-8193 (1974).

² *Vaile F. Walders*, 46 ECAB 822, 825 (1995).

³ *Lillian Cutler*, 28 ECAB 125, 129 (1976).

⁴ *Jose L. Gonzalez-Garced*, 46 ECAB 559, 563 (1995).

matter is generally not covered,⁵ and disabling conditions caused by an employee's fear of termination or frustration from lack of promotion are not compensable. In such cases, the employee's feelings are self-generated in that they are not related to assigned duties.⁶

Nonetheless, if the evidence demonstrates that the employing establishment erred or acted abusively or unreasonably in the administration of a personnel matter, any physical or emotional condition arising in reaction to such error or abuse may be covered.⁷ However, a claimant must support his allegations with probative and reliable evidence; personal perceptions alone are insufficient to establish an employment-related emotional condition.⁸

The initial question is whether appellant has alleged compensable employment factors as contributing to his condition.⁹ Thus, part of appellant's burden of proof includes the submission of a detailed description of the specific employment factors or incidents which appellant believes caused or adversely affected the condition for which he claims compensation.¹⁰ If appellant's allegations are not supported by probative and reliable evidence, it is unnecessary to address the medical evidence.¹¹

In this case, appellant, then a 42-year-old logistics management specialist, filed a notice of occupational disease on August 8, 1996, claiming that work-related stress associated with high visibility programs and assignments had caused a chemical imbalance and "a bad case of nerves."

Appellant explained that late in 1995 he was assigned to a program with the Israeli defense forces that required some travel and later learned that he was being investigated. Although a routine procedure, he became convinced that he was suspected of spying and was unable to exercise sound objectivity and judgment in dealing with the situation.

In support of his claim, appellant submitted the report of Dr. Jesse O. Cavenar, Jr., a Board-certified psychiatrist, who diagnosed paranoid schizophrenia and stated that it was "not clear" that this condition was aggravated by employment. Subsequently, the Office of Workers' Compensation Programs requested further information and a comprehensive medical report from appellant's treating physician.

In a report dated November 22, 1996, Dr. Cavenar stated that appellant was first treated on May 8, 1996 when he was psychotic with inappropriate affect, autism, ambivalence, paranoid

⁵ *Sharon J. McIntosh*, 47 ECAB 754, 756 (1996).

⁶ *Barbara E. Hamm*, 45 ECAB 843, 850 (1994).

⁷ *Margreate Lublin*, 44 ECAB 945, 956 (1993).

⁸ *Ruthie M. Evans*, 41 ECAB 416, 425 (1990).

⁹ *Wanda G. Bailey*, 45 ECAB 835, 838 (1994).

¹⁰ *Jimmy Gilbreath*, 44 ECAB 555, 558 (1993).

¹¹ *Margaret S. Krzycki*, 43 ECAB 496, 502 (1992).

delusions and associational loosening. He was hospitalized and discharged on May 30, 1996. Appellant returned to the United States and was again hospitalized for two weeks. Dr. Cavenar saw appellant on August 8 and 28, September 26, October 21 and November 19, 1996 and reported that his medication was working and he was no longer psychotic.

Dr. Cavenar concluded that the cause of schizophrenia is not known, and its onset appears to be a complex interaction between genetics and life events and stresses. He added: “[n]o one can say with certainty whether federal employment contributed to [appellant’s] condition.”

On March 25, 1997 the Office sent Dr. Cavenar a statement of accepted facts and a detailed list of questions on appellant’s condition. He responded on April 7, 1997 that he had no information about appellant’s work situation or about specific factors that might relate to his condition. Dr. Cavenar reiterated that it was “impossible to say whether employment either caused, aggravated, precipitated or accelerated this man’s condition” and added that, in his opinion, no one could answer the causal question with any degree of authority.

On May 12, 1997 the Office denied the claim on the grounds that the evidence was insufficient to establish that appellant’s psychiatric condition was causally related to employment factors. The Office accepted that appellant was responsible for high visibility programs including the transfer of weapons and ammunition and that he faced challenges in completing his work projects because of a lack of funds and personnel.

The Board finds that appellant has failed to meet his burden of proof in establishing a causal connection between his diagnosed condition and compensable work factors. Dr. Cavenar was unable to opine that appellant’s schizophrenia was caused by the stress of being in charge of important work projects.

Appellant’s supervisor, while recommending that the claim be approved for reimbursement of the 384 hours of sick leave used by appellant, provided no specific work factors that could have caused the “major behavioral change” noticed by his coworkers in early May 1996. Finally, appellant’s inability to deal rationally with a routine investigation or his suspicion that he would be accused of spying are completely unsubstantiated by the record.¹²

¹² See *Merriett J. Kauffman*, 45 ECAB 696, 703 (1994) (finding that appellant failed to allege or establish that specific work tasks or requirements assigned to him gave rise to his emotional condition).

The May 12, 1997 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.
May 6, 1999

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member